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6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**

8 WILMINGTON SAVINGS FUND SOCIETY,
9 FSB, AS TRUSTEE FOR STANWICH
10 MORTGAGE LOAN TRUST A,

11 Plaintiff,

12 vs.

13 SATICOY BAY LLC SERIES 9338
14 WILDERNESS GLEN AVENUE;
15 YELLOWSTONE HOMEOWNERS
16 ASSOCIATION,

17 Defendants.

18 SATICOY BAY LLC SERIES 9338
19 WILDERNESS GLEN AVENUE,

20 Counterclaimant,

21 vs.

22 WILMINGTON SAVINGS FUND SOCIETY,
23 FSB, AS TRUSTEE FOR STANWICH
24 MORTGAGE LOAN TRUST A,

25 Counter-Defendant.

Case No.: 2:17-cv-01775-JCM-BNW

**STIPULATION AND ORDER TO RESET
BENCH TRIAL DATE**

26 Plaintiff/Counter-Defendant, Edward Brown (“Brown”), as substituted party for
27 Wilmington Savings Fund Society, FSB, as Trustee for Stanwich Mortgage Loan Trust A
28 (“Wilmington”), and Defendant/Counterclaimant Saticoy Bay LLC Series 9338 Wilderness Glen

1 Avenue (“Saticoy”) (collectively, the “Parties”), by and through their counsel of record, hereby
2 agree and stipulate as follows.

- 3
4 1. This is an action for quiet title and declaratory relief following an HOA foreclosure
5 sale. The parties dispute whether the HOA sale extinguished Wilmington/Brown’s
6 interest in the subject deed of trust recorded against the subject property.
- 7
8 2. On August 25, 2022, this Court issued an order setting this case for a one-day bench
9 trial for March 27, 2023 at 9:00am (“Original Trial Date”) with calendar call set for
10 March 22, 2023 at 1:30pm. [ECF No. 120].
- 11
12 3. On September 23, 2022, Brown facilitated recordation of a Notice of Default and
13 Election to Sell under Deed of Trust (“NOD”) related to the property at issue in the
14 case located at 9338 Wilderness Glen Avenue, Las Vegas, Nevada 89178 (the
15 “Property”).
- 16
17 4. On December 28, 2022, Brown facilitated recordation of a Notice of Sale under Deed
18 of Trust related to the Property (“NOS”), setting a February 1, 2023 foreclosure sale
19 date (“Foreclosure Sale”).
- 20
21 5. On January 13, 2023, Saticoy filed an Emergency Motion for Temporary Restraining
22 Order to stop the Foreclosure Sale, requesting a hearing date before January 30, 2023.
23 (“Emergency Motion”). [ECF No. 121].
- 24
25 6. On January 13, 2023, in response to the Emergency Motion, and pursuant to Federal
26 Rules of Civil Procedure (“FRCP”) 65(a)(2), this Court issued an order (the “Order”),
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28

1 advancing the Trial Date to January 24, 2023 at 9:00am (“New Trial Date”) with
2 calendar call on January 18, 2023 at 1:30pm. [ECF No. 122].

3 7. FRCP Rule 65(a)(2) authorizes consolidation of the trial on the merits and the hearing
4 on the Emergency Motion, and authorizes the Court to advance the trial on the merits
5 as the Court did here.

6 8. Upon receipt of the Order, the parties met and conferred for the purposes of complying
7 with the Order. Based on that conferral, the Parties agree that it is impracticable, if not
8 impossible, to complete trial on January 24, 2023. Specifically, a trial on the merits
9 may require the testimony of at least two prior loan servicers (BSI and Ocwen), the
10 current loan servicer, and Saticoy.
11

12 9. Based on their good faith discussion, counsel for the Parties do not reasonably believe
13 that the necessary witnesses can or will be prepared to present for trial on January 24,
14 2023. Several of the witnesses—in particular the prior and current loan servicers—are
15 out of state entities. Among other things, the Parties do not have sufficient time to
16 serve subpoenas and assure an appearance by January 24, 2023; additionally, counsel
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1 for Brown is out of the state from January 20 through January 22 on a previously
2 planned personal family trip.

3 10. After conversing following the Order—and given the practicals of this matter and the
4 Parties' mutual desire to resolve this matter on the merits, the Parties hereby stipulate
5 and agree to resolve the Emergency Motion as follows:

6 a. Brown hereby agrees to postpone the February 1, 2023 Foreclosure Sale to a
7 date **after** the original March 27, 2023 trial date.

8 b. Saticoy hereby withdraws the Emergency Motion (and will also formally file a
9 notice withdrawing the Emergency Motion for completeness of record);

10 11. With the basis under FRCP 65(a)(2) for the Order now removed, the Parties hereby
11 respectfully request that this Court reset the New Trial Date back to the Original Trial
12 Date of March 27, 2023 at 9:00am (with Calendar Call on March 22, 2023 at 1:30pm)
13 as originally scheduled, thereby also vacating the required appearance of counsel at the
14 currently scheduled January 18, 2023 calendar call. This stipulation would also allow
15 the Parties to properly subpoena and confirm trial witness appearances as well as timely
16 prepare the necessary pre-trial order pursuant to Local Rule 16-3(b).

17 **IT IS SO STIPULATED.**

18 DATED this 17th day of January, 2023.

19 WRIGHT, FINLAY & ZAK, LLP

20 /s/ Robert A. Riether

21 Robert Riether Esq.

22 Nevada Bar No. 12076

23 *Attorneys for Plaintiff/Counter-Defendant,*
24 *Edward Brown*

25 DATED this 17th day of January, 2023.

26 ROGER P. CROTEAU & ASSOCIATES,
27 LTD

28 /s/ Roger P. Croteau

Roger P. Croteau, Esq.

Nevada Bar No. 4958

Attorneys for Defendant/Counterclaimant
Saticoy Bay LLC Series 9338 Wilderness
Glen Avenue

ORDER

Based on the aforementioned stipulation, this matter is reset for a one day bench trial on March 27, 2023 at 9:00am. Calendar call is reset for March 22, 2023 at 1:30p.m.

Consequently, the calendar call hearing on January 18, 2023 is hereby VACATED.

Pre-trial requirements are as follows: See the order regarding trial at ECF No. 123 ¶¶3–20

IT IS SO ORDERED January 17, 2023.


UNITED STATES DISTRICT JUDGE